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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,504	06/07/2001	Philip H. Burrus IV	EN11309	9312
20280 7590 01/09/2007 MOTOROLA INC 600 NORTH US HIGHWAY 45 ROOM AS437 LIBERTYVILLE, IL 60048-5343			EXAMINER LASTRA, DANIEL	
			ART UNIT	PAPER NUMBER
			3622	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/09/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/876,504

Applicant(s)

BURRUS, PHILIP H.

Examiner

DANIEL LASTRA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-4 and 6-16 have been examined. Application 09/876,504 (ELECTRONIC COUPON AND CUSTOMER DATA ACQUISITION APPARATUS AND METHOD) has a filing date 06/07/2001.

Response to Amendment

2. In response to Non Final Rejection filed 07/28/2006, the Applicant filed an Amendment on 10/20/2006, which amended claims 1, 6-8 and 10-12.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "the store receives". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz (US 6,243,447) in view of Sloane (US 5,918,211).

As per claims 1 and 6, Swartz teaches:

An electronic savings system, the system comprising:

a portable electronic device having unique personal identification data stored therein (see column 7, lines 10-16) and;

a means of transmitting the unique personal identification data to a *cash register* (see column 10, lines 40-55);

Swartz fails to teach wherein when the store receives the unique personal identification data, a store discount is applied to a plurality of specially marked store discounted items. However, Sloane teaches a system that when a store receives a portable device identification data a discount is applied to a plurality of marked store discount items (see col 8, lines 40-50; col 9, lines 5-20). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Swartz's cash registers terminals would receive from customers, said customers' portable device identification data in order that said cash registers give said customers appropriate discounts for products, as taught by Sloane, where said discounts would serve as an incentive to said customers to continue patronizing the Swartz's self checkout system.

As per claim 2, Swartz fails to teach:

The system of claim 1, further comprising a simulated credit card swipe coupled to the portable electronic device. However, Sloane teaches a portable device with a coupled simulated credit card swipe (see Sloane figure 10). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Swartz's portable device would be couple to a simulated credit card

swipe, as taught by Sloane in order that Swartz's portable devices facilitates the payment of products at a point of sale terminal.

As per claim 3, Swartz teaches:

The system of claim 1, wherein the portable electronic device comprises a cellular telephone and the unique personal identification data comprises a user's telephone number (see Swartz column 7, lines 10-17).

As per claim 4, Swartz teaches:

The system of claim 3 wherein the universal savings system comprises a discount card associated with a particular store (see col 2, lines 20-30).

As per claim 7, Swartz teaches:

The method of claim 6, further comprising the steps of:

providing a central computer (see col 3, lines 50-60 "store computer");

transmitting the unique personal identification data to the central computer (see col 7, lines 45-55) and

cross referencing the unique personal identification data with a stored data profile (see column 11, lines 20-30).

As per claim 8, Swartz teaches:

The method of claim 7, further comprising the steps of:

transmitting product data from the *cash* register to the central computer (see column 11, lines 20-30); and

storing the product data with a cross-reference to the unique personal identification data (see column 11, lines 20-30).

As per claim 9, Swartz fails to teach:

The method of claim 7, wherein the product data is used for inventory management. However, Sloane teaches using product data for inventory management (see Sloane column 9, lines 5-20). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Swartz would use the store inventory data in order to give customers appropriate discounts for products of an specific store.

As per claim 10, Swartz teaches:

A method of acquiring customer data, the method comprising the steps of:

providing a *cash* register capable having unique store identification data stored within, wherein the *cash* register comprises a means of transmitting the unique store identification data (see column 7, lines 30-40);

providing a personal electronic device capable of receiving the unique store identification data (see column 9, lines 30-38);

transmitting the unique store identification data from the *cash* register to the portable electronic device (see column 9, lines 30-38); and

Swartz fails to teach applying a store discount to the price of all specially marked, store discounted items upon successful transmission of the unique store identification data. However, Sloane teaches a system which gives customers discount upon successful transmission of said customers' identification data (see col 3, lines 30-45). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Swartz's cash registers terminals would receive

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from customers, said customers' portable device identification data in order that said cash registers give said customers appropriate discounts for products, as taught by Sloane, where said discounts would serve as an incentive to said customers to continue patronizing the Swartz's self checkout system.

As per claim 11, Swartz teaches:

The method of claim 10, further comprising the steps of:

transmitting the unique store identification data from the personal electronic device to a remote computer (see column 9, lines 30-37);

transmitting customer data from the personal electronic device to a remote computer (see Swartz column 9, line 46 – column 10, line 24); and

transmitting product data from the personal electronic device to a remote computer (see column 9, line 46 – column 10, line 40).

As per claim 12, Swartz teaches:

The method of claim 11, further comprising the steps of:

processing the unique store identification data, the customer data and the product data (see column 10, line 40 – column 11, line 28); and

producing a report with the unique store identification data, the customer data and the product data listed in an organized format (see column 3, lines 35-38; column 11, lines 20-27).

As per claim 13, Swartz teaches:

The method of claim 12, wherein the personal electronic device comprises a cellular telephone (see Swartz column 6, lines 20-25).

As per claim 14, Swartz teaches:

The method of claim 13, teaches wherein the *cash* register is linked to at least one other *cash* register via a network (see figure 3, item 74; col 7, lines 20-35).

As per claim 15, Swartz teaches:

The method of claim 14, further comprising the step of distributing advertising literature based upon the report (see column 4, lines 21-32).

As per claim 16, Swartz teaches:

The method of claim 14, further comprising the step of using the report for inventory management (see column 4, lines 20-26).

Response to Arguments

5. Applicant's arguments filed 10/20/06 have been fully considered but they are not persuasive. The Applicant argues that Swartz fails to teach any means for transmitting the unique personal identification data to a cash register because according to the Applicant, Swartz teaches the user transmitting the internal terminal identifier to a centralized store computer via a cellular telephone network and link. The Examiner answers that Swartz teaches "Register transaction is initiated when the customer approaches a checkout register (FIG. 3, reference numeral 74) or a pay station. This is indicated by the start point 171. The customer provides his portable communications terminal ID to a cashier. The cashier enters the portable communications terminal ID number into the register and transmits it to the store computer (FIG. 3, reference 73) via the communication link3. (FIG. 3, reference link3). Terminal ID entry may be accomplished via manual means, by optically reading the terminal's bar coded ID or

using magnetic stripe reader" (see col 10, lines 44-55). Therefore, contrary to Applicant's argument, Swartz teaches means for transmitting the unique personal identification data to a cash register.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra
January 7, 2007


RAQUEL ALVAREZ
PRIMARY EXAMINER